

Exhibit F



Department of
Transportation



Metropolitan Transportation Authority
State of New York



July 2, 2020

The Honorable Nicole R. Nason, Administrator
Federal Highway Administration
U. S. Department of Transportation
200 New Jersey Avenue, SE
Washington, D.C. 20590

Dear Administrator Nason:

We write to follow up with respect to our June 17, 2019 Expression of Interest (EOI) seeking tolling authority for the proposed Central Business District (CBD) Tolling Program (Program) under the Value Pricing Pilot Program (VPPP). We seek immediate action toward consideration of the EOI, and specifically commencement and expeditious undertaking of environmental review under the National Environmental Policy Act (NEPA). The need that our respective agencies has detailed for the CBD Tolling Program has become even more urgent as the result of COVID-19 pandemic. The pandemic has decimated fare revenues for our public transit system and is anticipated to result in increased automobile trips to the Manhattan CBD as businesses return to on-site operations. Without intervention, as proposed under the CBDTP, the region's economic recovery will be hampered while New York City's streets become even more congested.

As the President recently declared in his June 4, 2020 Executive Order (EO)¹, “[u]nnecessary regulatory delays will deny our citizens opportunities for jobs and economic security, keeping millions of Americans out of work and hindering our economic recovery from the national emergency.”² Consistent with the EO, the Federal Highway Administration (FHWA) should advance the Program (i.e., congestion pricing) by expediting NEPA review.

The Project Sponsors (the New York State Department of Transportation, the Triborough Bridge and Tunnel Authority [“TBTA”] and the New York City Department of Transportation) have had numerous communications with FHWA, both before and after the Sponsors' June 2019 submission of the EOI, including on the subject of the NEPA. The Project Sponsors have provided extensive information to inform FHWA's decision as to the type of NEPA document it will require (an EA or Environmental Impact Statement [EIS]), most recently the submission of the Program Overview and Traffic and Revenue Study, a preliminary assessment of traffic and revenue that could result from the Program, in January 2020. This followed a December 17, 2019 response to FHWA's October 24, 2019 request for further information about the Program.

FHWA has neither responded to the December 17th and January 27th submissions nor determined the level of environmental review it believes is warranted for the Program. This is highly unusual. FHWA typically provides early advice on the type of environmental documentation that will be required (EA versus EIS), in accordance with its obligation under law to “commence its

¹ *EO on Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities - Infrastructure & Technology* – Issued June 4, 2020.

² *Id.*, Sec. 1.

NEPA process at the earliest possible time” (40 CFR 1501.2(d)(3); 40 CFR 1501.4; 23 CFR §§ 771.111(a)(3), (b)(1)). Delaying the commencement of the NEPA process has already substantially delayed implementation of the Program, and will continue to delay it as long as it is deferred.

Apart from deviation from typical FHWA practice, this delay departs from the Trump Administration’s stated goals of streamlining federal approval processes. The June 4th Executive Order specifically directs the Secretary of Transportation to “use all relevant emergency and other authorities to expedite work on, and completion of, all authorized and appropriated highway and other infrastructure projects that are within the authority of the Secretary to perform or to advance.”³ In addition, a major goal of proposed changes to the CEQ regulations is “to facilitate more efficient, effective, and timely NEPA reviews by Federal agencies.” *See* 85 Fed. Reg. 1684, 1685 (January 10, 2020). As noted by CEQ, its proposal is “consistent with the One Federal Decision policy established by E.O. 13807 for multi-agency review and related permitting and other authorization decisions.” 85 Fed. Reg. at 1691. And the May 19th Executive Order on Regulatory Relief to Support Economic Recovery directs federal agencies to take appropriate action to avoid the applicability of regulations and policy that would thwart economic recovery from the COVID-19 pandemic.

The Program will be needed in the near term notwithstanding the current temporary effect of COVID-19 on traffic in the CBD. During the imposition of social distancing restrictions, traffic substantially diminished. There are myriad factors – none of which are predictable at this time – that will determine the timing of the return of normal economic activity and the concomitant restoration of traffic levels, and thus the reemergence of congestion in the CBD. Indeed, although the New York City metropolitan area remains under significant restrictions, traffic has been steadily increasing for more than a month. Since Governor Cuomo declared New York State on Pause on March 22nd, vehicle volumes on MTA Bridges and Tunnels have increased from 65% below pre-pandemic levels to 21% below as of June 26, 2020. Data from the University of Maryland, which is tracking movement nationwide and on a county-by-county scale, supports that observed trend. Based on historical data after other significant events that stalled economic activity, and recent information, traffic levels will rebound – and that return may be rapid. In fact, we can anticipate more people choosing to travel to the CBD by car as businesses reopen in the very near future.⁴

Further delaying the commencement of NEPA review – beyond that which has already occurred – will preclude Program implementation at the time it is needed to address congestion in the CBD and the need to supplement transit revenues. Based on research by the Partnership for New York City, the net economic benefit of the CBDTP of reducing traffic congestion, once traffic recovers from currently depressed levels, could exceed \$100 billion over five years.⁵ The mass transit system in New York City is critical to the economic recovery of the City and the metropolitan area – which are major drivers of the national economy. The extant difficulty in financing already-planned and needed capital improvements has been exacerbated by the COVID-19 pandemic, as transit revenues have precipitously dropped and new improvements in transit operations are now needed so that people can safely get back to work. The revenues that would be generated by the Program are vital to improve mass transit and allow for a complete economic recovery in our region. Given the CBD’s status as a national economic engine, the

³ 6/4/20 EO Sec. 3.a. Expediting the Delivery of Transportation Infrastructure Projects.

⁴ *See* <http://www.wnyc.org/story/new-york-city-prepares-open-no-plan-managing-more-cars/>.

⁵ <https://pfnyc.org/research/100-billion-cost-of-traffic-congestion-in-metro-new-york/>.

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ability to generate these revenues will have important economic implications for the nation as a whole.

While New York has advanced this nation-leading self-help approach toward implementing innovative local strategies to reduce congestion, after more than one year since submitting our Expression of Interest, FHWA has not formally accepted this project into the Value Pilot Pricing Program nor authorized the State to proceed with the federally-required environmental review process. As the environmental review represents just the first step in the project approval process, we find it indefensible that in a pandemic recovery era the federal government would continue to withhold such approval. Continued delay only serves to deprive the nation's financial, insurance and real estate capital the means to generate locally-derived revenues in support of critical mobility enhancements to station access and passenger circulation; system throughput and service frequency; and the deployment of innovative safety technologies. In short, FHWA should promptly commence environmental review as mandated by NEPA.

Sincerely,



Marie Therese Dominguez
Commissioner
NY State Department of Transportation



Patrick J. Foye
Chairman & Chief Executive Officer
Metropolitan Transportation Authority



Polly Trottenberg
Commissioner
NYC Department of Transportation

c.c.: J. Szabat, Under Secretary for Transportation Policy, USDOT
R. Epstein, Executive Deputy Commissioner, NYSDOT
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